

Before the Board of Zoning Adjustment, D. C.

Application No. 11870 of the Estate of Henry A. Lange, pursuant to Section 8207.1 of the Zoning Regulations for an area variance from the rear yard requirement of the C-2-A District (5303.1) to permit the enclosure of an existing storage area of a restaurant, as provided by Section 8207.11 of the Regulations at the premises 307 Pennsylvania Avenue, S.E., Lot 19, Square 790.

HEARING DATE: April 16, 1975
EXECUTIVE SESSION: August 6, 1975

FINDINGS OF FACT:

1. The subject property is located entirely within a C-2-A zoning district and is improved by a two-story building having a height of approximately 25 feet. The building is devoted to restaurant use for the A & K Restaurant.

2. The lot contains an area of 964 square feet and varies in width from approximately $9\frac{1}{2}$ feet to $14\frac{1}{2}$ feet. The rear 15 feet of the property behind the building is being utilized as a storage area for the restaurant and is enclosed by a 8-foot masonry wall so that the area itself is not visible from any street frontage or surrounding property. The storage area is presently covered with a temporary roof. Applicant requests permission to place a permanent roof on the storage area.

3. The C-2-A District permits 100% lot coverage. However, because no public alley abuts the property to the rear which could be included in the 15-foot rear yard requirement, a 15-foot rear yard is required under a strict application of the Regulations. Under applicant's proposal, above the permanent roof proposed the full 15-foot rear yard open area would be provided.

4. After a fire in 1972 which damaged the restaurant, the owners of the A & K Restaurant expended approximately \$60,000 in upgrading its business. The restaurant holds a certificate of occupancy No. B85174 dated May 18, 1973 for "restaurant, 38 persons--basement; 36 persons--first floor, second floor, kitchen and storage."

5. One of the owners of the restaurant testified that it was impracticable to locate storage elsewhere than presently located due to the limited size and narrowness of the site. Under the Building Code and Health Regulations, the restaurant must provide egress and ingress as well as rest room for the clientele. Additionally, as a practical consideration, adequate kitchen area and a small office space are required for the operation of the restaurant. Since the building has only three usable floors and all of the space therein is otherwise utilized, it is necessary to provide the storage area at the rear of the building.

6. By Department of Environmental Services, Environmental Health Administration, Bureau of Food and Drugs report of March 21, 1974, the Health Administration advised the restaurant owners "to provide adequate food storage for all dried foods and single-service containers and to provide a tight and leak-proof roof for the rear storage area with the ceiling height not less than 8 feet clearance." In order to comply with the advice of the Department of Environmental Services and to provide a more aesthetically pleasing and efficient storage area, the owners propose a permanent roof enclosure above the existing perimeter walls.

7. On the abutting sides to the east and west there are commercial uses also within the C-2-A zone.

8. While there were supporting letters in the file, there were persons who appeared in opposition to the application.

OPINION AND CONCLUSIONS OF LAW:

The Board concludes that the applicant has established that he would suffer a practical difficulty if the area variance were not granted. The storage area in the rear yard is permitted as a matter of right as is a temporary cover. However, in order to provide a permanent roof, the Board of Zoning Adjustment must grant the rear yard variance requested. Because of the narrowness and small size of the lot, the restricted size of the building, the requirements of the Health Administration, strict compliance with the Regulations would be unduly burdensome. The Board concludes that the grant of the variance to provide a permanent roof will not adversely affect the public good or impair the integrity of the zone plan. The rear yard area is presently surrounded by an 8-foot masonry perimeter wall and is not visible from surrounding properties. A permanent roof enclosure will increase the efficiency, security and health standards of the restaurant and will prevent the storage area from being seen in any way from surrounding properties. It is ORDERED that the above application be GRANTED by a vote of 4-1 (Chairman Scrivener, Mr. Harps, Mr McIntosh and Mr. Klauber to GRANT, Lilla Burt Cummings, Esq. dissenting).

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BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



Steven E. Sher
Acting Secretary to
the Board

FINAL DATE OF ORDER: **FEB 10 1976**

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

Before the Board of Zoning Adjustment, D.C.

Application No. 11870 of Michael D. Lange, Trustee of the Estate of Henry Lange, pursuant to Sub-section 8207.1 of the Zoning Regulations, for a variance from the rear yard requirements (Sub-section 5303.1) to permit permanent enclosure of an existing area in the C-2-A District at the premises 307 Pennsylvania Avenue, S.E. (Square 790, lot 19).

HEARING DATE: April 16, 1975

DECISION DATE: August 6, 1975

DISPOSITION: Application granted by a vote of 4-1 (Scrivener, Harps, McIntosh and Klauber to grant, Cummings to deny)

FINAL DATE OF ORDER: February 10, 1976

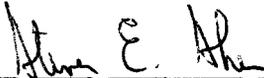
ORDER

Upon consideration of the Motion for Stay of Order Pending Judicial Review, dated February 27, 1976, filed by a party in opposition, it is the opinion of the Board that the motion does state valid reasons as to why the effect of the Board's order should be stayed. It is therefore ordered that the effect of the Board's previous order in this application, dated February 10, 1976, is hereby stayed until such time as the District of Columbia Court of Appeals disposes of the petition for review of this application.

VOTE: 3-1 (Cummings, McIntosh and Harps to stay, McCants not to stay and McZier not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:



STEVEN E. SHER
Acting Secretary to the Board

FINAL DATE OF THE ORDER:

MAR 24 1976